

REMARKS

This amendment is being filed in response to an Office Action mailed 04/08/2009, in which the Examiner said that claims 1-28, 30-42, and 44-55 were pending but rejected. In this amendment, claims 30-34, and 44-47 are canceled, and claims 3, 13, 25, 35 and 48 are amended to overcome reasons for rejections given by the Examiner. Other reasons for rejections are traversed below.

Claims Rejected under 35 USC §§101, 112

The Examiner said that claims 44-55 were rejected under 35 USC §101 because the claims do not represent a proper computer readable medium as the Applicant's specification recites in ¶0056 a computer readable medium as a "signal embodied on a modulated carrier wave, and that these claims were rejected under 35 USC §112, second paragraph, because they do not present a proper structure.

In this regard, the Applicant notes that ¶0056 states:

Programs for execution within the store computer system 10 are loaded into data storage 64, having been read from data stored in the computer readable medium 58 or are received for downloading in the form of computer data signals embodied on a modulated carrier wave through the communications adapter 46, which may be connected to a computer network transmission channel 70. Programs for execution within the microprocessor 24 of the point-of-sale terminal 12 may be transmitted in the form of a computer signal on a modulated carrier wave transmitted from the communication adapter 46 of the store computer system 10 to the communication adapter 42 of the point-of-sale terminal 12.

The Applicant respectfully submits that this paragraph clearly indicates that the programs can be loaded *either* from the computer readable medium 58, *or* in the form of a computer data signal on a modulated carrier signal. This statement clearly indicates that the computer readable medium and the computer data signal are different things;

there is no reason to believe from this statement that the computer data signal on a modulated carrier signal is a computer readable medium. The fact that computer programs can be loaded from either of two sources does not make the two sources the same thing.

Therefore, the Applicant respectfully submits that claims 44-55 meet the requirements of 35 USC §§101, 112.

Claim Objections

The Examiner said that claim 13 was objected to because it recited "shipping" instead of "shopping." This error is corrected herein.

Claims Rejected under 35 USC §102

The Examiner indicated that claims 1, 2, 4-24, 26-28, 30-42, and 44-55 were rejected under 35 USC §102(b) as being anticipated by U.S. Pat. No. 5,295,064 to Malec.

Regarding claim 1, the Applicant respectfully submits that Malec fails to teach or anticipate the requirement of this claim for

- d) comparing each said code representing at least one item with said advertisement history data to determine whether an item advertised in said at least one advertisement is purchased by each shopper within said plurality of shoppers; and

- e) generating usage data representing each display of an advertisement for an item purchased by each shopper within said plurality of shoppers.

Regarding these limitations, the Examiner said that they were taught by Malec in column 6, lines 45-67.

It is noted that this section of Malec, in describing the billing and control computer (BCC) indicates that:

The BCC accepts data returned from the stores 107 to the studio 103...The BCC

can produce reports for the clients, advertising agencies, and retailers...Reports may be made on which ads were shown and at what frequency. Reports may be made on which ads were shown and how many consumers purchased the advertised product.

The Applicant respectfully submits that Malec thus teaches the use of aggregate data, i.e., the number of times an advertisement was shown and the number of customers that bought the advertised product, rather than the performance of data for each single advertised product bought by a customer, as required by the limitations of claim 1. The method of claim 1 requires more calculations and provides more data to store, but offers substantial advantages in providing data that is useful in the analysis of the effectiveness of individual advertisements. There is no suggestion in the teachings of Malec that data from an individual purchase should be examined to determine whether a particular advertisement was shown to the customer making the purchase. For example, if an advertisement were shown to 50 percent of the customers, and the advertised product were sold to 50 percent of the time, it cannot be determined, using the method of Malec, whether the advertisement was highly effective in producing customers to buy, whether the advertisement prevented customers from buying the product, or whether the advertisement made no substantial difference. However, such a determination is easily made using the method of the Applicant's claim 1, since the purchase of a product causes usage data to be generated to indicate which advertisement was shown to that particular shopper.

For the above reasons, the Applicant respectfully submits that claim 1 is patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 2, 4-8, 10-12, and 17-19, it is respectfully submitted these claims are patentable under 35 USC §102(b) as not being anticipated by Malec by virtue of the dependence of these claims on claim 1, which is believed to be patentable as described above.

Regarding claim 9, the Applicant respectfully submits that Malec fails to teach or anticipate the requirement of this claim for the shopping cart to additionally include a receipt printer. Regarding this requirement, the Examiner cited column 5, lines 35-40. However, the Applicant notes that this cited passage refers, not to a shopping cart, but rather to a display emulator 304, shown in FIG. 2, that is part of a work station that is used at a remote location in the preparation of messages. In such an application, a printer may be used for many purposes, such as printing the displayed messages for further reference in editing the messages. There is no mention in Malec of this printer being used to print receipts or of a printer being included in the cart for any purpose.

The Applicant further respectfully submits that Malec fails to teach or anticipate the requirement of this claim for the period of use to begin with reading the machine readable element on a first item. There is no mention within Malec of a period of use (i.e. a period during which advertisements are displayed and an advertising history is developed) beginning with reading an element on the first item purchased at the shopping cart.

The Applicant additionally respectfully submits that Malec fails to teach or anticipate the requirement of this claim for the period of use to end with printing a receipt within the receipt printer included in the shopping cart. As mentioned above, there is no mention within Malec of a receipt printer in the shopping cart.

For all the above reasons, and additionally because claim 9 adds these limitations to the limitations of claim 1, which is believed to be patentable as described above, the Applicant respectfully submits that claim 9 is patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claim 13, the Applicant respectfully submits that Malec fails to teach or anticipate the requirement of this claim for:

determining a name associated with a code representing an item from an item data structure relating codes representing items with names associated with said items; and

comparing said name associated with said code with a data record representing an advertisement displayed on said shopping cart, wherein said data record includes a name advertised in said advertisement represented by said data record.

In rejecting this claim, the Examiner referenced FIG. 9A of Malec, which shows an advertisement in which a product name is displayed as part of a graphic indicating a price reduction. However, the Applicant respectfully submits that displaying a name as part of a graphical image does not imply that the name is used within an executing program to be related to a code representing an item or for comparison with a data record representing an advertisement. There is no teaching in Malec that a name should be used in this way.

Therefore, and additionally because claim 13 adds these limitations to the limitations of claim 1, which is believed to be patentable as described above, the Applicant respectfully submits that claim 9 is patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 14 and 15, because these claims merely add limitations to the limitations of claim 13, which is believed to be patentable as described above, the Applicant respectfully submits that these claims are patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claim 16, the Applicant respectfully submits that Malec fails to teach or anticipate the requirement of this claim for determining a plurality of amounts of money owed by a plurality of advertisers by applying an algorithm to the usage data.

In column 6, lines 45-68, Malec describes types of reports that can be generated by the

billing and controlling computer (BCC), including reports on which ads were shown and at what frequency, which ads were shown and how many customers purchased an advertised product. While market research to test the effectiveness of advertisements is mentioned, there is no mention of applying an algorithm to usage data to determine an amount of money owed by an advertiser.

Therefore, and additionally because claim 16 adds these limitations to the limitations of claim 1, which is believed to be patentable as described above, the Applicant respectfully submits that claim 9 is patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 20 and 26, the Applicant respectfully submits that Malec fails to teach or anticipate the requirements of claim 20 for a store computer system including a processor programmed to whether an item advertised in said at least one shopping cart to each shopper in said plurality of shoppers has been purchased by said shopper, and to generate usage data representing each display of an advertisement for an item purchased by a shopper within said plurality of shoppers. Furthermore, the Applicant respectfully submits that Malec fails to teach or anticipate the requirements of claim 26 for a processor programmed to generate said data causing said advertisements to be displayed in said display unit of each of said at least one shopping cart, to compare said item codes with said advertisement history data to determine whether an item advertised in an advertisement displayed in said at least one shopping cart to each shopper within said plurality of shoppers has been purchased by a shopper in said plurality of shoppers, and to generate usage data representing each display of an advertisement for an item purchased by said shopper using said shopping cart.

Regarding these limitations, the Examiner said that they were taught by Malec in column 6, lines 45-67.

It is noted that this section of Malec, in describing the billing and control computer

(BCC) indicates that:

The BCC accepts data returned from the stores 107 to the studio 103...The BCC can produce reports for the clients, advertising agencies, and retailers...Reports may be made on which ads were shown and at what frequency. Reports may be made on which ads were shown and how many consumers purchased the advertised product.

The Applicant respectfully submits that Malec thus teaches the use of aggregate data, i.e., the number of times an advertisement was shown and the number of customers that bought the advertised product, rather than the performance of data for each single advertised product bought by a customer, as required by the limitations of claims 20 and 26. The method of claim 1 requires more calculations and provides more data to store, but offers substantial advantages in providing data that is useful in the analysis of the effectiveness of individual advertisements. There is no suggestion in the teachings of Malec that data from an individual purchase should be examined to determine whether a particular advertisement was shown to the customer making the purchase. For example, if an advertisement were shown to 50 percent of the customers, and the advertised product were sold to 50 percent of the time, it cannot be determined, using the method of Malec, whether the advertisement was highly effective in producing customers to buy, whether the advertisement prevented customers from buying the product, or whether the advertisement made no substantial difference. However, such a determination is easily made using the method of the Applicant's claims 20 and 26, since the purchase of a product causes usage data to be generated to indicate which advertisement was shown to that particular shopper.

For the above reasons, the Applicant respectfully submits that claims 20 and 26 are patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 21-24, because these claims merely add limitations to the limitations of claim 20, which is believed to be patentable as described above, the Applicant

respectfully submits that these claims are patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 27-28, because these claims merely add limitations to the limitations of claim 26, which is believed to be patentable as described above, the Applicant respectfully submits that these claims are patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 30-34 and 44-47, these claims are canceled in this amendment.

Regarding claims 35 and 48, in this amendment these claims are each modified to indicate that the code received in step a) describes an item that is being purchased, rather than an item that is to be purchased, and that the further determination of step b) that the code that the item has been advertised during the time period is made in response to this determination in step a). Support for this modification is found in ¶¶0080, 0082 of the specification as originally filed and in FIG. 6. Note that the determination in step 172 that barcode has been received means that the item represented by the barcode is being purchased, and that the resulting steps 212, 214, 216 match the item with an advertisement that has been presented during the time period.

the Applicant respectfully submits that Malec fails to teach or anticipate the requirements of these claims for determining, in response to receiving a code for an item being purchased during a time period (of use of the cart by a single shopper), that the item described by the code has been advertised during the time period (with the determination being made through the advertisement history data.)

Regarding these limitations, the Examiner said that they were taught by Malec in column 24, lines 20-40. It is noted that this section of Malec describes the use of a cart motion/touch sensor to determine that the customer is at the cart or moving the cart

when the advertisement is displayed. There is no mention in Malec of determining whether an advertised item has actually been purchased.

It is further noted that Malec, in describing the billing and control computer (BCC) indicates that:

The BCC accepts data returned from the stores 107 to the studio 103...The BCC can produce reports for the clients, advertising agencies, and retailers...Reports may be made on which ads were shown and at what frequency. Reports may be made on which ads were shown and how many consumers purchased the advertised product.

The Applicant respectfully submits that Malec thus teaches the use of aggregate data, i.e., the number of times an advertisement was shown and the number of customers that bought the advertised product, rather than the performance of data for each single advertised product bought by a customer, as required by the limitations of claim 1. The method of claim 1 requires more calculations and provides more data to store, but offers substantial advantages in providing data that is useful in the analysis of the effectiveness of individual advertisements. There is no suggestion in the teachings of Malec that data from an individual purchase should be examined to determine whether a particular advertisement was shown to the customer making the purchase. For example, if an advertisement were shown to 50 percent of the customers, and the advertised product were sold to 50 percent of the time, it cannot be determined, using the method of Malec, whether the advertisement was highly effective in producing customers to buy, whether the advertisement prevented customers from buying the product, or whether the advertisement made no substantial difference. However, such a determination is easily made using the method of the Applicant's claim 1, since the purchase of a product causes usage data to be generated to indicate which advertisement was shown to that particular shopper.

For the above reasons, the Applicant respectfully submits that claims 35 and 48 are is

patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 36-39, 42, 49-52, and 55 the Applicant respectfully submits that these claims are patentable under 35 USC §102(b) as not being anticipated by Malec because of their dependence upon claims 35 and 48, respectively, for reasons described above.

Regarding claims 40 and 53, the Applicant respectfully submits that Malec fails to teach or anticipate the requirements of each of these claims for comparing an advertised name read from said advertisement data record with a name associated with said item read from said data record. In rejecting these claims, the Examiner has cited column 6, lines 45-67, but that Applicant respectfully submits that a reference to finding a name in the advertisement data to match a name in data describing a product is not found in this passage or elsewhere in Malec.

Therefore, and additionally because claims 41 and 54 add these limitations to the limitations of claim 35 and 48, respectively, which are believed to be patentable as described above, the Applicant respectfully submits that claims 41 and 54 are patentable under 35 USC §102(b) as not being anticipated by Malec.

Regarding claims 41 and 54, the Applicant respectfully submits that Malec fails to teach or anticipate the requirement of each of these claims for determining a plurality of amounts of money owed by a plurality of advertisers by applying an algorithm to the usage data.

In column 6, lines 45-68, Malec describes types of reports that can be generated by the billing and controlling computer (BCC), including reports on which ads were shown and at what frequency, which ads were shown and how many customers purchased an advertised product. While market research to test the effectiveness of advertisements is mentioned, there is no mention of applying an algorithm to usage data to determine

an amount of money owed by an advertiser.

Therefore, and additionally because claims 41 and 54 add these limitations to the limitations of claim 35 and 48, respectively, which are believed to be patentable as described above, the Applicant respectfully submits that claims 41 and 54 are patentable under 35 USC §102(b) as not being anticipated by Malec.

Claims Rejected under 35 USC §103

The Examiner said that claims 3 and 25 were rejected under 35 USC §103(a) as being unpatentable over Malec.

Regarding claim 3, the Applicant respectfully submits that Malec fails to teach or anticipate the requirements of claim 3 for displaying at least one advertisement on said shopping cart by holding at least one advertising placard within a display unit and for generating advertisement history data representing each of said at least one advertisement within a step including generating an electrical signal in accordance with settings of electrical contacts operated according to a pattern of a surface of said at least one advertising placard held within said display unit.

The Applicant respectfully submits that Malec teaches against such an arrangement by teaching, as described in the Abstract, that the display in a shopping cart should be responsive to a unique trigger signals provided by respective transmitters associated with respective fixed locations, so that, when the display receives a unique trigger signal, it displays advertising associated with the respective location. This cannot be done using an advertising placard as required in claim 3.

Furthermore, the Applicant respectfully submits that Malec fails to teach or anticipate the requirement of this claim for

- d) comparing each said code representing at least one item with said advertisement history data to determine whether an item advertised in said at

least one advertisement is purchased by each shopper within said plurality of shoppers; and

e) generating usage data representing each display of an advertisement for an item purchased by each shopper within said plurality of shoppers.

It is noted that Malec, in describing the billing and control computer (BCC) indicates that:

The BCC accepts data returned from the stores 107 to the studio 103...The BCC can produce reports for the clients, advertising agencies, and retailers...Reports may be made on which ads were shown and at what frequency. Reports may be made on which ads were shown and how many consumers purchased the advertised product.

The Applicant respectfully submits that Malec thus teaches the use of aggregate data, i.e., the number of times an advertisement was shown and the number of customers that bought the advertised product, rather than the performance of data for each single advertised product bought by a customer, as required by the limitations of claim 1. The method of claim 1 requires more calculations and provides more data to store, but offers substantial advantages in providing data that is useful in the analysis of the effectiveness of individual advertisements. There is no suggestion in the teachings of Malec that data from an individual purchase should be examined to determine whether a particular advertisement was shown to the customer making the purchase. For example, if an advertisement were shown to 50 percent of the customers, and the advertised product were sold to 50 percent of the time. it cannot be determined, using the method of Malec, whether the advertisement was highly effective in producing customers to buy, whether the advertisement prevented customers from buying the product, or whether the advertisement made no substantial difference. However, such a determination is easily made using the method of the Applicant's claim 1, since the purchase of a product causes usage data to be generated to indicate which

advertisement was shown to that particular shopper.

For the above reasons, the Applicant respectfully submits that claim 3 is patentable under 35 USC §103(a) over Malec.

Regarding claim 25, the Applicant respectfully submits that Malec fails to teach or anticipate the requirement of this claim for the display unit to include at least one slot for holding a placard having printed advertising data and a plurality of switches activated by an element of surface structures on said placard.

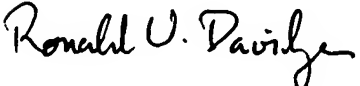
The Applicant respectfully submits that Malec teaches against such an arrangement by teaching, as described in the Abstract, that the display in a shopping cart should be responsive to a unique trigger signals provided by respective transmitters associated with respective fixed locations, so that, when the display receives a unique trigger signal, it displays advertising associated with the respective location. This cannot be done using an advertising placard as required in claim 25.

Therefore, and additionally because claim 25 merely adds these limitations to claim 20, which is believed to be patentable as described above, the Applicant respectfully submits that claim 3 is patentable under 35 USC §103(a) over Malec.

Conclusions

It is respectfully submitted that the application, including claims 1-28, 35-42, and 48-55, is now in condition for allowance, and that action is respectfully requested, along with reconsideration and reversal of all reasons given for objections and rejections.

Respectfully submitted,

A handwritten signature in black ink, reading "Ronald V. Davidge". The signature is written in a cursive style with a large, stylized 'R' and a long, sweeping underline.

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